

REMARKS

As indicated above, this is a Preliminary Amendment filed along with a Request for Continued Examination.

Claims 2 - 6 are currently pending in this patent application, claim 6 being an independent claim.

Claim 6 has been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicant regards as his invention. The applicant respectfully submits that no new matter has been added.

In the final Office Action dated August 2, 2006, the Examiner reiterated the following rejections: (1) claims 2, 3, 5 ("as dependent upon 6, 2, and 3"), and independent claim 6 stand rejected under 35 USC §102(b) as being anticipated by Bohrer; and (2) claims 4 and 5 ("as dependent upon claim 4") stand rejected under 35 USC §103(a) based on Bohrer. Also, the Examiner basically repeats his reasons for rejecting the claims as set forth in his last Office Action dated March 8, 2006. Again, the applicant respectfully requests reconsideration of these rejections.

At this time, the applicant and his undersigned representative thank Examiner F.B. Vanaman for taking the time to conduct a telephone conference with the undersigned on November 27, 2006.

Highlighted in the above-noted telephone conference was the applicant's claimed switching means for changing a maximum driving force of the claimed hydraulic motor for allowing the hydraulically-driven vehicle to efficiently operate in any working condition. As described in, for example, line 2, page 14 through line 12, page 15 of the applicant's specification, the changeover switch for adjusting the maximum (or minimum) tilt angle of the hydraulic motor allows for the adjustment of the motor driving force such that the driving force of the tire is restricted by restricting the motor driving force even when the accelerator pedal is stepped at a maximum. The above-mentioned operation is not directed to the switching between higher and lower gears, and therefore it is not required to have the specific recitation of such distinction (i.e., recitation of operation at higher and lower gears) in the claim language, as suggested in, for example, lines 1 - 5, item 8, page 4 of the March 8, 2006 Office Action, and lines 3 - 12, item 6, page 3 of the August 2, 2006 Office Action.

Subsequent to the discussions on the significance of the claimed switching means, discussions were directed to the highlighting of the function of the claimed switching means in relation to the operation of the hydraulic motor. Accordingly, the applicant has further amended

independent claim 6 by not unnecessarily narrowing or limiting the scope of the claimed invention with the addition of claim language directed to any switching between higher and lower gears. Instead, the applicant has further amended claim 6 so as to relate the structural features of the applicant's claimed switching means to the remaining portions of the claimed elements recited in claim 6.

In other words, what is now highlighted in claim 6 is the limitation that it is also possible to switch into some stages, as described in, for example, lines 17 - 21, page 13 in the applicant's specification having the advantages or benefits derived therefrom as explained in, for example, line 21, page 13 through line 12, page 15 of the applicant's specification.

It is submitted that the Bohrer patent does not teach the claimed hydraulically-driven vehicle, as now recited in independent claim 6.

In view of the above, not all of the claimed elements, as now set forth in independent claim 6 (and claims 2, 3 and 5 that depend therefrom), are found in exactly the same situation and united in the same way to perform the identical function in Bohrer's apparatus. Thus, there can be no anticipation under 35 USC §102(b) of the applicant's claimed hydraulically-driven vehicle based on Bohrer. Accordingly, the withdrawal of the outstanding anticipation rejection under 35 USC §102(b) based on Bohrer is in order, and is therefore respectfully solicited.

Also, for the reasons discussed above, a person of ordinary skill in the art would not have found the applicant's claimed invention, as now recited in independent claim 6 from which claims 4 and 5 depend, obvious under USC §103(a) based on the teachings of Bohrer. Accordingly, the withdrawal of the outstanding anticipation rejection under 35 USC §103(a) based on Bohrer is in order, and is therefore respectfully solicited.

In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

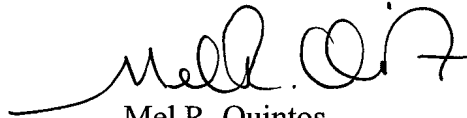
If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

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In the event that this paper is not timely filed, the applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper to Deposit Account No. 01-2340.

Respectfully submitted,

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